

HLAG/NYK/MSC
Vessel Sharing Agreement

FMC Agreement
No. 203-011539-019
(12th Edition)

Original
Title Page

HLAG/NYK/MSC VESSEL SHARING AGREEMENT

RESTATEMENT OF AGREEMENT

Original Effective Date: May 10, 1996

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1. Full Name of the Agreement. The full name of this Agreement is the HLAG/NYK/MSC Vessel Sharing Agreement.

2. Purpose of the Agreement. The purpose of this Agreement is to permit each of the Parties to achieve efficiencies and economies in their respective services offered in the Trade (as defined in Article 4) covered by this Agreement.

3. Parties to the Agreement. The names and addresses of the principal offices of the Parties to this Agreement are set forth in Appendix A hereto.

4. Geographic Scope of the Agreement. The geographic scope of this Agreement (the "Trade") shall be the following trades, served via direct, transshipment or intermodal service:

(a) the trade between ports on the Atlantic Coast of Florida and in the United States Gulf range (including Puerto Rico) and inland and coastal points served via those ports on the one hand, and ports in Brazil, Argentina, Paraguay, Uruguay, Venezuela, Colombia, the Dominican Republic and Trinidad and Tobago, and inland and coastal points served via those ports, on the other hand; and

(b) the trade between ports on the Atlantic Coast of Florida and in the United States Gulf range (including Puerto Rico) and inland and coastal points via such ports on the one hand, and ports in Mexico and inland and coastal points served via such ports on the other hand.

5. Overview of Agreement Authority.

5.1 Vessel Coordination and Sailings.

(a) The Parties are authorized to consult and agree upon the initial and subsequent contribution, deployment and utilization of vessels in the Trade including, without limitation, sailing schedules, the number and character of their sailings at ports in the Trade, port rotations, ports to be served, and type and size of vessels to be utilized. The Parties are authorized to operate a maximum of 12 linehaul vessels, with capacities of up to 8,500 TEUs each excluding breakbulk space, under this Agreement at any one time. Initially, the Parties shall operate one string under this Agreement, utilizing eight (8) vessels of approximately 5,500 TEU capacity, with six (6) such vessels provided by HLAG, one (1) provided by NYK, and one (1) provided by MSC.

(b) The Parties are authorized to consult and agree upon any and all aspects of feeder operations in the Trade (and are authorized to load or discharge cargo on or from the vessels which they employ in the Trade, regardless of origin or destination), including, without limitation, the contribution, deployment, redeployment, elimination and utilization of feeder vessels, sailing schedules, port rotation, the number, type and size of feeder vessels to be utilized, and the terms and conditions under which the Parties shall share the capacity of feeder vessels.

5.2 Reciprocal Space Chartering.

(a) The Parties are authorized to consult and agree to charter and interchange space to and from each other on their respective vessels (which may be owned or chartered) and/or on vessels on which they have contracted for space, and are authorized to agree on the number of slots and/or space to be chartered and on the terms for said transportation. Initially, the space on vessels operated hereunder shall be allocated as follows: HLAG: 2,924 TEUs/39,182 Mtons; NYK: 488 TEUs/6,539 Mtons; MSC: 488 TEUs/6.539 Mtons. The Parties may also buy and sell space from within their respective allocations to one another on an ad hoc basis on such terms and conditions as they may agree from time to time.

(b) As used in this Article, a Party who charters vessel capacity from another Party shall be referred to as "Charterer" and a Party whose vessel capacity is chartered by the other Party for transportation shall be referred to as "Owner."

(1) On such terms and subject to such limitations as (i) the Parties may agree, or (ii) may be imposed by applicable law, each Party shall accept for transportation and transport any and all containerized cargo and equipment (including empty container equipment) tendered to it by another Party. Equipment includes, but is not limited to, containers owned or leased by the Parties, whether full, partially loaded or empty and other freight service equipment that the Parties may agree upon.

(2) The Parties are authorized to consult and agree on the acceptance and transportation of ro/ro, breakbulk and/or bulk, and other classifications of cargo and equipment under this Agreement.

(3) Each Owner will, as to its vessels, provide, pay for, and submit to the other Party satisfactory evidence of hull and machinery insurance, P&I insurance and evidence of financial responsibility for liability for oil pollution not later than the Effective Date of this Agreement. Each Party further agrees to provide the other with written notice of the removal or cancellation of any such insurance and prompt notice of any change, modification or

non-renewal of such insurance for non-payment of premiums thereon. Until a Party receives such notice, it may rely on the continuing representation of the other Party that it is maintaining the aforesaid insurance.

(4) Each Charterer is authorized to advertise sailings by vessels of each Owner on which Charterer will charter space.

(c) Chartering or subchartering of space in the Trade on vessels operated under this Agreement to non-party vessel operating common carriers is subject to the unanimous consent of the Parties. For avoidance of doubt, the Parties consent to the sub-charter of space by HLAG to Arpez S.A. and Nobleza Naviera S.A. for the movement of cargo between Argentina and Brazil and Uruguay and Brazil, respectively.

5.3 Efficient Use of Equipment, Terminals, Stevedores, Ports and Suppliers. The Parties are authorized to consult and agree to interchange or establish pools of empty containers, chassis and/or related equipment to provide for the efficient use of such equipment on such terms as they may agree. The Parties are authorized to jointly contract with or coordinate in contracting with stevedores, terminals, ports, inland depots, and suppliers of equipment, land or services, and each Party is authorized to designate another Party to provide such services on the designating Party's behalf. Nothing herein contained shall authorize the Parties to jointly operate a marine terminal in the United States.

5.4 Intentionally left blank.

5.5 Documentation, Data Systems. The Parties are authorized to consult and agree on terms and conditions of joint development, use, implementation, and interchange of documentation, data systems, information and data, other operating, equipment control or similar systems, and computerization and joint communication, including any joint negotiations, leasing or contracting relating thereto.

5.6 Miscellaneous. The Parties are authorized to consult and agree in writing upon such general operational, administrative and accounting matters and other related terms and conditions concerning the implementation of this Agreement as may be necessary or convenient from time to time, including, but not limited to, performance procedures and penalties, procedures for allocating space, forecasting, terminal operations, stowage planning, schedule adjustments, recordkeeping, responsibility for loss or damage, the establishment and operation of individual or joint tonnage centers, the rates, costs and payment procedures between the Parties for any services provided by one Party to another Party, the terms and conditions for adjustments due to the occurrence of force majeure circumstances, insurance, liabilities, claims, indemnification, consequences for delays, and treatment of hazardous and dangerous cargoes.

5.7 Implementing or Interstitial Arrangements. The Parties are authorized to enter into implementing or interstitial arrangements, writings, understandings, procedures or documents within the scope of the authority contained in this Agreement in order to carry out the authority and purpose hereof.

5.8 General. This Agreement is not intended to create a joint service. Each party shall: utilize and maintain its own marketing, pricing and sales organizations; issue its own bills of lading and handle its own claims; be fully responsible for its own expenses and operations; and operate and manage its own vessels.

6. Officials of the Agreement and Delegations of Authority. The following are authorized to subscribe to and file this Agreement, any modification hereof, and any accompanying materials with the Federal Maritime Commission:

- (a) Any authorized officer of each of the Parties; and
- (b) Legal counsel for each of the Parties.

7. Membership, Withdrawal, Readmission and Expulsion.

7.1 Membership is limited to the Parties hereto, except that additional carriers may be admitted or readmitted by unanimous consent of the Parties at that time members of this Agreement and by amendment of this Agreement pursuant to the Shipping Act of 1984.

7.2 If any Party shall breach its obligations under this Agreement and such breach shall have a material adverse effect on another Party, and the Parties each acting in good faith shall fail to resolve their dispute or there shall have been no correction of such breach within 60 days after written notice by the affected Party to the breaching Party detailing such breach, then any non-breaching Party may withdraw from this Agreement effective upon at least 10 days' written notice to the other Party to become effective at the end of the aforesaid 60-day period.

7.3 If any Party shall give notice to the other Party that any government or agency thereof has imposed any restriction or failed to grant or has withdrawn any required approval, and such restriction, or the absence of such approval, would have a material adverse effect upon a Party's obligations or performance under this Agreement and such restriction or required approval is not removed or obtained within 60 days thereafter, the notifying Party may withdraw from this Agreement upon at least 10 days' written notice

to the other Party to become effective at the end of the aforesaid 60-day period.

7.4 Any Party may withdraw from this Agreement at any time immediately by serving written notice thereof on the other Party if another Party files, or has filed against it, proceedings under bankruptcy, insolvency or other similar laws and such proceedings are not dismissed within 120 days, or if the vessel of another Party is seized or arrested and such seizure or arrest is not lifted within 30 days.

7.5 Any Party may withdraw from this Agreement at any time upon three months' notice to the other Party if there is a transfer of ownership of 50 percent or more of the outstanding shares of another Party or a transfer of shares of another Party representing 50 percent or more of the shareholders, voting power.

7.6 In the event a Party withdraws from this Agreement, the remaining Parties may meet and discuss whether or not to continue this Agreement. If no agreement to continue this Agreement is reached within the notice period of such withdrawal, then the remaining Parties may, upon at least 30 days prior notice, withdraw effective on the date of the first Party's withdrawal.

7.7 In the event of a termination of this Agreement or withdrawal herefrom, the Parties shall remain liable to one another in respect to all liabilities and obligations incurred prior to the termination or withdrawal.

7.8 The Federal Maritime Commission shall be promptly notified in writing of any such withdrawal from this Agreement.

8. Voting. All actions taken pursuant to this Agreement shall require unanimous agreement of the Parties.

9. Duration and Termination of Agreement.

9.1 Duration. This Agreement shall take effect as of the Effective Date (as defined in Article 9.2) and shall continue for a minimum period of sixteen (16) months from the Effective Date. It shall continue in effect unless and until this Agreement is terminated pursuant to Article 9.3. Upon any termination, Article 7.7 shall apply.

9.2 Effective Date. The term "Effective Date" shall mean the date Amendment No. 19 to this Agreement becomes effective pursuant to the Shipping Act of 1984.

9.3 Termination.

(a) Any Party may resign from this Agreement by giving a minimum of 4 months written notice of termination to the other Parties; provided, however, that no such notice may be given prior to twelve (12) months after the Effective Date, or become effective prior to sixteen (16) months after the Effective Date.

(b) This Agreement may be terminated at any time by unanimous written agreement of the Parties.

9.4 Notice. The Federal Maritime Commission shall be promptly notified in writing of the Effective Date and the date of termination of this Agreement.

10. Applicable Law. This Agreement is governed by and shall be construed in accordance with English law, provided however that nothing herein shall relieve the Parties of their obligation to comply with the US Shipping Act of 1984, as amended and, to the exclusion of any conflict of law that would refer the matter to the laws of another jurisdiction.

11. Arbitration.

11.1 Any dispute or difference whatsoever that may arise at any time concerning the construction or effect of this Agreement (including, without limitation, any question regarding its existence, validity or termination or as to the rights, duties or liabilities of any of the parties arising out of or in relation to this Agreement), which cannot be resolved amicably by the Parties, shall be referred to arbitration in London in accordance with the Arbitration Act of 1996 or any statutory modification or re-enactment thereof, save to the extent to give effect to the provisions of this Article.

11.2 Unless the Parties agree on a sole Arbitrator within seven (7) days of the dispute having arisen, one (1) Arbitrator shall be appointed by each Party and the two (2) Arbitrators so appointed shall jointly appoint a third Arbitrator, who shall act as Chairman, and the decision of any two (2) of them shall be final and binding upon the Parties. The Arbitrators appointed by each Party shall be either full, aspiring or supporting members of the LMAA and shall have previously heard LMAA arbitration references resulting from disputes involving vessel sharing agreements.

11.3 Where (i) one Party (or Parties, where more than two of the Parties are in dispute), fails to appoint its Arbitrator, whether originally or by way of substitution, within fourteen (14) days after the other Party (or Parties) appointed his Arbitrator and called upon the defaulting Party (or Parties) by telex, fax or letter to make its appointment, or (ii) the two (2) Arbitrators appointed by or on behalf of the Parties cannot agree within seven (7) days on the identity of the third Arbitrator, the President for the time being of the London Maritime Arbitrators Association ("LMAA") shall, upon application of either Party, appoint an Arbitrator on behalf of the defaulting Party or, as the case may be, the third Arbitrator, and the Arbitrator so appointed shall have the like powers to act in the reference and make an award (and where applicable, the like duty in relation to the appointment of a third Arbitrator) as if he had been appointed originally in accordance with the terms of this Agreement.

11.4 If any Arbitrator refuses to act, or becomes incapable of acting in the reference, the party having originally appointed such Arbitrator shall appointment a substitute Arbitrator in his place.

11.5 All arbitration proceedings under or in connection with this Agreement shall be held and conducted in the English language in accordance with the LMAA Terms current at the time when the proceedings are commenced, provided that where neither the claim nor any counterclaim exceeds the sum of US\$50,000.00 (or the equivalent in other currency), the arbitration will be conducted in accordance with the LMAA Small Claims Procedure.

11.6 For the avoidance of doubt each Party will be responsible for the fees of its arbitrator. Nothing herein shall prevent the Parties agreeing in writing to vary these provisions to provide for the appointment of a sole arbitrator.

11.7 Any arbitration proceedings concerning this Agreement, and any Award made pursuant to such proceedings shall be kept strictly confidential between the Parties.

12. Force Majeure.

No Party shall be deemed responsible with respect to its failure to perform any term (except the payment of amounts due and payable under this Agreement to another Party or a third party) or condition of this Agreement if such failure, wholly or partly, is due to an event of Force Majeure, such as, but not limited to, the event of war, whether declared or not, hostilities or the imminence thereof, act of public enemies, restraint of princes, boycott against flag, political ban, civil commotion, invasion, rebellion, sabotage, strikes, labor disputes, terrorism, piracy, other work stoppages, governmental (national, state, prefectural, municipal or other) regulations or controls taken or issued in sovereign capacity, acts of God, marine casualty, accident or any other event whatsoever beyond the affected Party's reasonable control. Upon the occurrence of an Event of Force Majeure the Party seeking to rely upon it must forthwith give

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notice to the others specifying the nature of the Force Majeure event and its effect upon the performance of this Agreement. Any Party claiming an event of Force Majeure shall exercise all reasonable endeavors to remedy minimize the consequences of such event on the performance of this Agreement. Upon termination of such Force Majeure event causing a Party's failure to perform its obligations under this Agreement, such Party shall as soon as possible resume its performance of its obligations according to the terms and conditions of this Agreement.

13. Non-Assignment. No Party shall assign its rights or delegate its duties under this Agreement to any other person or entity without the prior written consent of the other Parties.

14. Notices. Any notice pertaining to this Agreement, except as the Parties may otherwise provide, shall be in writing sent by facsimile transmission to be received during the business day of the Party receiving the notice and confirmed by first class mail, postpaid. The facsimile number and mailing address of each Party is set forth in Appendix A.

15. Enforceability. If at any time during the performance of this Agreement, any non-material terms, covenant, condition or proviso contained in this Agreement, or the application thereof to any person or circumstances, shall be held to be invalid, illegal or unenforceable, the remainder of this Agreement or the application of such term, covenant, condition or proviso to persons or circumstances other than those to which it is invalid, illegal or unenforceable shall not be affected thereby and each term, covenant, proviso or condition of this Agreement shall be valid and be enforceable to the full extent permitted by law. if/ however, during the effective period of this Agreement, the Shipping Act of 1984 is amended or repealed resulting in the prohibition of conferences or the loss of antitrust immunity in respect of activities encompassed by this Agreement and is not immediately replaced by any other law, regulation or judicial or administrative action which authorizes the continuation of conference and/or common tariffs among ocean common carriers or the activities encompassed in this Agreement and includes such antitrust immunity, any Party may terminate this Agreement without prior consultation by giving written notice of termination to be effective not earlier than the effective date of such amendment or repeal.

16. Counterparts. This Agreement and any amendment hereto may be executed in multiple counterparts. Each counterpart shall be deemed an original, but all together shall constitute one and the same agreement.

17. Transition.

17.1 Effective April 1, 2018 (the "Transition Date"), the container liner operations of Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; and Nippon Yusen Kaisha (each individually a "3J Line" and collectively the "3J Lines") shall be combined into a new company known as Ocean Network Express Pte. Ltd. ("ONE"). In light of the foregoing, the Parties hereto agree as follows:

(a) Effective as of the Transition Date, this Agreement is hereby amended to add ONE as a Party.

(b) Subject to subparagraph (c) below, effective as of the Transition Date, Nippon Yusen Kaisha ("NYK") hereby transfers and assigns all its rights, obligations and liabilities under the Agreement to ONE and, subject to subparagraph (c) below, this Agreement shall automatically be terminated vis-a-vis and cease to apply or bind NYK, and with the same terms and conditions, automatically be effectuated to apply to and bind ONE. ONE hereby accepts above effectuation the transfer and assignment of, and agrees to assume, all of the rights, obligations and liabilities of NYK under the Agreement effective as of the Transition Date. The other Parties to the Agreement hereby consent to the herein described transfer and assignment.

(c) Notwithstanding subparagraph (b) above, NYK shall remain liable to the other Parties to the Agreement for its obligations under the Agreement with respect to the period prior to the Transition Date, as well as for any obligations arising out of or in connection with voyage legs which began prior to the Transition Date but which will not be completed until after the Transition Date and any cargo movements thereon. In this regard, it is understood and agreed by all Parties that ONE shall be responsible only for those obligations arising out of or in connection with voyage legs and/or cargo movements being performed by it, and shall not be responsible for voyage legs and/or cargo movements performed by NYK. The obligations of NYK under this subparagraph (c) shall survive the termination of the membership of NYK in this Agreement.

(d) Subject to the last sentence of subparagraph (c) above, effective as of the Transition Date, the Agreement is hereby amended to delete NYK as a Party; provided, however, that notwithstanding said deletion, NYK shall remain a Party to this Agreement for purposes of completing voyage legs and for fulfilling all obligations arising out of or in connection with such voyage legs which began prior to the Transition Date but which will not be completed until after the Transition Date and any cargo movements thereon.

(e) Prior to the Transition Date, ONE is authorized to attend and participate in all decisions under this Agreement. Notwithstanding the foregoing, ONE shall have no voting rights under the Agreement until after the Transition Date. Notwithstanding ONE's participation in discussions under the Agreement prior to the Transition Date, no antitrust immunity shall be conferred upon ONE for discussions that occur prior to the Transition Date.

(f) Effective as of the Transition Date, all references in this Agreement to NYK shall be read as references to ONE.

(g) Notwithstanding anything to the contrary in this Agreement, the Parties agree that this Agreement, as amended by Amendment No. 21 (adding this Article 17), shall not be implemented prior to the receipt of any required regulatory approvals.

APPENDIX A

Names and Addresses of Parties

1. Hapag-Lloyd AG ("HLAG")
Ballindam 25
20095 Hamburg, Germany
2. Nippon Yusen Kaisha ("NYK")
Yusen Building
3-2, Marunouchi 2-Chome
Chiyoda-ku, Tokyo 100-91
Japan
3. MSC Mediterranean Shipping Company SA
12-14 Chemin Rieu
1208 Geneva
Switzerland
4. Ocean Network Express Pte. Ltd.
7 Straights View
#16-01 Marina One East Tower
Singapore 018936

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SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have agreed as of this 20 day of March, 2018, to amend this Agreement as per the attached pages.

MSC MEDITERRANEAN SHIPPING
COMPANY S.A.

By: A. Fusillo
Name: [Signature]
Title: SVP

NIPPON YUSEN KAISHA

By: _____
Name: _____
Title: _____

HAPAG-LLOYD AG

OCEAN NETWORK EXPRESS PTE. LTD.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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IN WITNESS WHEREOF, the Parties have agreed as of this 20th day of March, 2018, to amend this Agreement as per the attached pages.

MSC MEDITERRANEAN SHIPPING
COMPANY S.A.

By: _____

Name:

Title:

NIPPON YUSEN KAISHA

By: 

Name: TAKASHI MASUDA

Title: GENERAL MANAGER
GLOBAL NETWORK

HAPAG-LLOYD AG

OCEAN NETWORK EXPRESS PTE. LTD.

By: _____

Name:

Title:

By: _____

Name:

Title:

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IN WITNESS WHEREOF, the Parties have agreed as of this 27th day of March, 2018, to amend this Agreement as per the attached pages.

MSC MEDITERRANEAN SHIPPING
COMPANY S.A.

By: _____

Name:

Title:

NIPPON YUSEN KAISHA

By: _____

Name:

Title:

HAPAG-LLOYD AG

OCEAN NETWORK EXPRESS PTE. LTD.

By:  By: 

Name: gez. A. J. Firmin G. K. WARNCKE Name:

Title: COO Director Title:

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IN WITNESS WHEREOF, the Parties have agreed as of this 20th day of March, 2018, to amend this Agreement as per the attached pages.

MSC MEDITERRANEAN SHIPPING
COMPANY S.A.

By: _____

Name:

Title:

NIPPON YUSEN KAISHA

By: _____

Name:

Title:

HAPAG-LLOYD AG

OCEAN NETWORK EXPRESS PTE. LTD.

By: _____

Name:

Title:

By: 

Name: MICHIO ANAI

Title: Sr. Vice President